

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA

DOCKET NO. 1999-174-C - ORDER NO. 1999-891

DECEMBER 20, 1999

IN RE:	Application of FON Digital Network, Inc. for	)	ORDER
	a Certificate of Public Convenience and	)	GRANTING
	Necessity to Operate as a Reseller of	)	CERTIFICATE
	Interexchange Telecommunications Services	)	
	within the State of South Carolina.	)	

This matter comes before the Public Service Commission of South Carolina (the "Commission") by way of the Application of Fon Digital Network, Inc. ("Fon Digital Network" or the "Company") requesting a Certificate of Public Convenience and Necessity authorizing it to provide intrastate resold telecommunications services between and among locations within the State of South Carolina as a non facilities-based interexchange telecommunications service provider. The Company's Application was filed pursuant to S.C. Code Ann. § 58-9-280 (Supp. 1998) and the Regulations of the Public Service Commission of South Carolina.

The Commission's Executive Director instructed Fon Digital Network to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the affected areas. The purpose of the Notice of Filing was to inform interested parties of Fon Digital Network's Application and of the manner and time in which to file the appropriate pleadings for participation in the proceeding. The Company complied with this

instruction and provided the Commission with proof of publication of the Notice of Filing. No Petitions to Intervene were filed.

A hearing was convened on December 2, 1999, at 2:00 p.m. in the Commission's Hearing Room at 101 Executive Center Drive, Columbia, South Carolina. The Honorable Philip T. Bradley, Chairman, presided. Fon Digital Network was not represented by counsel. Jocelyn D. Green, Staff Counsel, represented the Commission Staff.

Gregory Dunstan Foutz, President of Global Operations of Fon Digital Network appeared and testified in support of the Application. As President of Global Operations since June 1, 1991, Mr. Foutz oversees Fon Digital Network's United States day to day operations and he develops relationships in Mexico, Latin America, Russia, Czechoslovakia, Slovenia, Paris, Canada, Sweden and with other carriers with whom he has had a relationship for a long time. Fon Digital Network has existed for approximately two years.

Upon certification from this Commission, Fon Digital Network will operate as a switchless reseller of interexchange telecommunications. The record reveals the Company will offer 1+ dialing, travel card services, 800 (toll free) services, prepaid calling cards, and directory assistance services. Fon Digital Network's name and customer service department telephone number will appear on the prepaid calling card. According to Mr. Foutz, the Company will not assess its customers any service charges or bong fees and the cards will not expire.

Regarding the Company's technical services, Mr. Foutz testified Fon Digital Network will operate as a switchless reseller. Frontier and Alliance will be the Company's underlying carriers and the underlying carriers will respond to technical problems which evolve in South Carolina. The officers of the Company include Franklin Moore, Jim Stanley, Mary Ann Evans, Burl Sheppard, Joseph Capelli, and Mr. Foutz. The record reveals that the Company's total current assets are a little over 1.8 million and its total current liabilities are a little over 4 million. Fon Digital Network's CIC code will be 10-10-A13.

The Company is certified in thirty-seven states and is not currently operating its services in any of the thirty-seven states. Fon Digital Network will market its services through direct employees and alternate channel programs. Agents on a direct commission will resell Fon Digital Network's products through the alternate channels program. According to Mr. Foutz, employees and agents in the alternative channels program are trained by Fon Digital Network. The Company does not anticipate targeting a particular market and it will offer its services to business and residential customers.

Fon Digital Network's customer service department is operated by the Company in Tennessee, New York, and Florida. This department is open from 9:00 a.m. to 9:00 p.m. eastern standard time. Customer calls that are received after hours will be forwarded to a live voice at Tell Trust in Utah and McCloud USA in Chicago. The repair department is open twenty-four hours a day, seven days a week. Fon Digital Network will also perform its own billing services and the Company's name and telephone number will appear on the bill.

After full consideration of the applicable law, the Company's application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

**FINDINGS OF FACT**

1. Fon Digital Network is organized as a corporation under the laws of the State of Florida and is authorized to do business as a foreign corporation in the State of South Carolina by the Secretary of State.
2. Fon Digital Network operates as a non facilities-based reseller of interexchange services and wishes to provide its services in South Carolina.
3. Fon Digital Network has the experience, capability, and financial resources to provide the services as described in its Application.

**CONCLUSIONS OF LAW**

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to Fon Digital Network to provide intrastate interLATA service and to originate and terminate toll traffic within the same LATA, as set forth herein, through its own facilities and through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Service (MTS), Foreign Exchange Service, Private Line Service, or any other services authorized for resale by tariffs of carriers approved by the Commission.
2. The Commission adopts a rate design for Fon Digital Network for its resale of interexchange services which includes only maximum rate levels for each tariff

charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

3. Fon Digital Network shall not adjust its interexchange rates below the approved maximum level without notice to the Commission and to the public. Fon Digital Network shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level for interexchange services reflected in the tariff which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provision of S.C. Code Ann. §58-9-540 (Supp. 1998).

4. If it has not already done so by the date of issuance of this Order, Fon Digital Network shall file its revised tariff and an accompanying price list within thirty (30) days of receipt of this Order. The revised tariff shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations.

5. Fon Digital Network is subject to access charges pursuant to Commission Order No. 86-584, in which the Commission determined that for access purposes resellers and facilities-based interexchange carriers should be treated similarly.

6. With regard to the Company's resale of service, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

7. Fon Digital Network shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If Fon Digital Network changes underlying carriers, it shall notify the Commission in writing.

8. Fon Digital Network shall file surveillance reports on a calendar or fiscal year basis with the Commission as required by Order No. 88-178 in Docket No. 87-483-C. The proper form for these reports is indicated on Attachment A.

9. As a condition of offering debit card services, the Commission requires the Company to post with the Commission a bond in the form of a Certificate of Deposit worth \$5,000 drawn in the name of the Public Service Commission of South Carolina or a surety bond in the amount of \$5,000 which is payable to the Commission. The Certificate of Deposit shall be drawn on federal or state chartered banks or savings and loan associations which maintain an office in this state and whose accounts are insured by either the FDIC or the Federal Savings and Loan Insurance Corporation. A surety bond shall be issued by a duly licensed bonding or insurance company authorized to do business in South Carolina. This condition may be reviewed in one year.

10. If the Company sells its debit cards to retail establishments for resale of the debit cards, and the retailer of the debit cards deviates from the suggested retail price as filed in the tariff, or as approved by the Commission in a special promotion, then the Company will withdraw its cards from that retail outlet. This Commission strongly suggests that the Company enter into written agreements with its South Carolina retail outlets regarding this policy of abiding by suggested retail pricing prior to the outlet marketing the card.

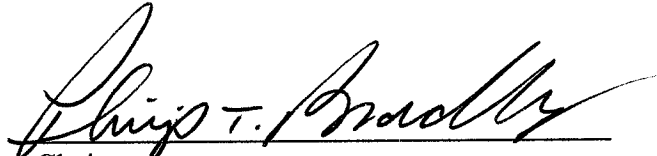
11. With regard to the origination and termination of toll calls within the same LATA, Fon Digital Network shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993), and 47 CFR 51.209.

12. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. Fon Digital shall file the names, addresses, and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. Attachment B shall be used to file the name(s) of regulatory compliance personnel. Further, the Company shall promptly notify the Commission in writing if the representatives are replaced, and

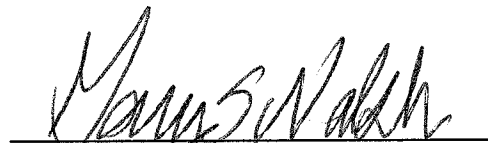
the Company is directed to comply with the Commission regulations unless waived by the Commission.

13. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

  
Chairman

ATTEST:

  
Executive Director

(SEAL)



DOCKET NO. 1999-174-C - ORDER NO. 1999-891  
DECEMBER 20, 1999  
ATTACHMENT A

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**ANNUAL INFORMATION ON SOUTH CAROLINA OPERATIONS  
FOR INTEREXCHANGE COMPANIES AND AOS'S**

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COMPANY NAME

---

FEI NO.

---

ADDRESS

---

CITY, STATE, ZIP CODE

---

PHONE NUMBER

- (1) SOUTH CAROLINA OPERATING REVENUES FOR THE 12 MONTHS ENDING  
DECEMBER 31 OR FISCAL YEAR ENDING \_\_\_\_\_.
- (2) SOUTH CAROLINA OPERATING EXPENSES FOR THE 12 MONTHS ENDING  
DECEMBER 31 OR FISCAL YEAR ENDING \_\_\_\_\_.
- (3) RATE BASE INVESTMENT IN SOUTH CAROLINA OPERATIONS\* FOR  
12 MONTHS ENDING DECEMBER 31 OR FISCAL YEAR ENDING \_\_\_\_\_.
- \* THIS WOULD INCLUDE GROSS PLANT, ACCUMULATED DEPRECIATION,  
MATERIALS AND SUPPLIES, CASH WORKING CAPITAL, CONSTRUCTION WORK IN  
PROGRESS, ACCUMULATED DEFERRED INCOME TAX, CONTRIBUTIONS IN AID OF  
CONSTRUCTION AND CUSTOMER DEPOSITS.
- (4) PARENT'S CAPITAL STRUCTURE\* AT DECEMBER 31 OR FISCAL YEAR ENDING  
\_\_\_\_\_.
- \* THIS WOULD INCLUDE ALL LONG TERM DEBT (NOT THE CURRENT PORTION  
PAYABLE), PREFERRED STOCK AND COMMON EQUITY.
- (5) PARENT'S EMBEDDED COST PERCENTAGE (%) FOR LONG TERM DEBT AND  
EMBEDDED COST PERCENTAGE (%) FOR PREFERRED STOCK AT YEAR ENDING  
DECEMBER 31 OR FISCAL YEAR ENDING \_\_\_\_\_.
- (6) ALL DETAILS ON THE ALLOCATION METHOD USED TO DETERMINE THE AMOUNT  
OF EXPENSES ALLOCATED TO SOUTH CAROLINA OPERATIONS AS WELL AS  
METHOD OF ALLOCATION OF COMPANY'S RATE BASE INVESTMENT (SEE #3  
ABOVE).

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SIGNATURE

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NAME (PLEASE TYPE OF PRINT)

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TITLE

## AUTHORIZED UTILITY REPRESENTATIVE INFORMATION

### PURSUANT TO SOUTH CAROLINA PUBLIC SERVICE COMMISSION REGULATION

103-612.2.4(b) - Each utility shall file and maintain with the Commission the name, title, address, and telephone number of the persons who should be contacted in connection with General Management Duties, Customer Relations (Complaints), Engineering Operations, Test and Repairs, and Emergencies during non-office hours.

\_\_\_\_\_  
Company Name ( Including dba Name(s) or Acronyms used or to be used in South Carolina)

\_\_\_\_\_  
Business Address

\_\_\_\_\_  
City, State, Zip Code

A.

\_\_\_\_\_  
General Manager Representative (Please Print or Type)

\_\_\_\_\_  
Telephone Number / Facsimile Number / E-mail Address

B.

\_\_\_\_\_  
Customer Relations (Complaints) Representative (Please Print or Type)

\_\_\_\_\_  
Telephone Number / Facsimile Number / E-mail Address

C.

\_\_\_\_\_  
Engineering Operations Representative (Please Print or Type)

\_\_\_\_\_  
Telephone Number / Facsimile Number / E-mail Address

D.

\_\_\_\_\_  
Test and Repair Representative (Please Print or Type)

\_\_\_\_\_  
Telephone Number / Facsimile Number / E-mail Address

E.

\_\_\_\_\_  
Contact for Emergencies During Non-Office Hours (Please Print or Type)

\_\_\_\_\_  
Telephone Number / Facsimile Number / E-mail Address

F.

\_\_\_\_\_  
Financial Representative (Please Print or Type)

\_\_\_\_\_  
Telephone Number / Facsimile Number / E-mail Address

G.

\_\_\_\_\_  
Customer Contact Telephone Number for Company (Toll Free)

\_\_\_\_\_  
This form was completed by

\_\_\_\_\_  
Signature

**If you have any questions, contact the Consumer Services Department (803-896-5230)  
or Utilities Department at (803-896-5105).**